

## Department of Commerce

1352.239-71

contain a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. The Contracting Officer will notify the contractor within 10 working days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes.

(End of clause)

[75 FR 10570, Mar. 8, 2010; 75 FR 14496, Mar. 26, 2010]

### 1352.239-70 Software license addendum.

As prescribed in 48 CFR 1339.107, insert the following clause:

#### SOFTWARE LICENSE ADDENDUM (APR 2010)

(a) This Addendum incorporates certain terms and conditions relating to Federal procurement actions. The terms and conditions of this Addendum take precedence over the terms and conditions contained in any license agreement or other contract documents entered into between the parties.

(b) Governing Law: Federal procurement law and regulations, including the Contract Disputes Act, 41 U.S.C. Section 601 *et. seq.*, and the Federal Acquisition Regulation (FAR), govern the agreement between the parties. Litigation arising out of this contract may be filed only in those fora that have jurisdiction over Federal procurement matters.

(c) Attorney's Fees: Attorney's fees are payable by the Federal government in any action arising under this contract only pursuant to the Equal Access to Justice Act, 5 U.S.C. Section 504.

(d) No Indemnification: The Federal government will not be liable for any claim for indemnification; such payments may violate the Anti-Deficiency Act, 31 U.S.C. Section 1341(a).

(e) Assignment: Payments may only be assigned in accordance with the Assignment of Claims Act, 31 U.S.C. Section 3727, and FAR Subpart 32.8, "Assignment of Claims."

(f) Invoices: Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. Section 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment.

(g) Patent and Copyright Infringement: Patent or copyright infringement suits brought against the United States as a party may only be defended by the U.S. Department of Justice (28 U.S.C. Section 516).

(h) Renewal of Support after Expiration of this Award: Service will not automatically renew after expiration of the initial term of this agreement.

(i) Renewal may only occur in accord with (1) the mutual agreement of the parties; or (2) an option renewal clause allowing the Government to unilaterally exercise one or more options to extend the term of the agreement.

(End of clause)

[75 FR 10570, Mar. 8, 2010; 75 FR 14496, Mar. 26, 2010]

### 1352.239-71 Electronic and information technology.

As prescribed in 48 CFR 1339.270(a), insert the following provision:

#### ELECTRONIC AND INFORMATION TECHNOLOGY (APR 2010)

(a) To be considered eligible for award, offerors must propose electronic and information technology (EIT) that meet the applicable Access Board accessibility standards at 36 CFR 1194 designated below:

- \_\_\_\_\_ 1194.21 Software applications and operating systems
- \_\_\_\_\_ 1194.22 Web-based intranet and internet information and applications
- \_\_\_\_\_ 1194.23 Telecommunications products
- \_\_\_\_\_ 1194.24 Video and multimedia products
- \_\_\_\_\_ 1194.25 Self-contained, closed products
- \_\_\_\_\_ 1194.26 Desktop and portable computers
- \_\_\_\_\_ 1194.31 Functional performance criteria
- \_\_\_\_\_ 1194.41 Information, documentation and support

(b) The standards do not require the installation of specific accessibility-related software or the attachment of an assistive technology device, but merely require that the EIT be compatible with such software and devices so that it can be made accessible if so required by the agency in the future.

(c) Alternatively, offerors may propose products and services that provide equivalent facilitation. Such offers will be considered to have met the provisions of the Access Board standards for the feature or components providing equivalent facilitation. If none of the offers that meet all applicable provisions of the standards could be accepted without imposing an undue burden on the agency or component, or if none of the offerors propose products or services that fully meet all of the applicable Access Board's provisions, those offerors whose products or services meet some of the applicable provisions will be considered eligible for award. Awards will not be made to an offeror meeting all or some of the applicable Access Board provisions if award would impose an undue burden upon the agency.